

Application No.: 10/058,029

Docket No.: R2184.0132/P132

REMARKS

By this amendment, claims 1-10, 13-16, and 18 have been amended. Claims 1-18 are pending in the application. Applicant reserves the right to pursue the original claims in other applications.

The specification has been reviewed and is believed to be in proper form.

Claim 18 stands rejected under 35 U.S.C. § 101 on the grounds that it is drawn to a computer program. Claim 18 has been amended to comply with the Office Action's suggestion. Applicant respectfully requests that the rejection of claim 18 should be withdrawn.

Claims 1, 8, 9, and 16-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hashimoto (US 6,172,955). Applicants respectfully traverse this rejection.

Claim 1, as amended, recites, inter alia, "background-formatting the recording medium in a first rotation mode suitable for the background-formatting, ... receiving a user request for writing user data ..., [and] determining whether the first rotation mode is suitable for writing the user data in response to receipt of the user request." Claim 1 further recites "if the first rotation mode is suitable ..., writing the user data ..., [but] if the first rotation mode is not suitable ..., rotating the recording medium in a second rotation mode and writing the user data." Hashimoto does not disclose such a limitation. Hashimoto discloses "if it is determined, in step S13, that a request for recording is sent ... [i]n step S14, the formatting operation is temporarily stopped so as to record a user data packet. After the recording of the user data packet ..., the routine proceeds." Col 8, ln. 42-49. Hashimoto does not disclose the step of "determining whether the first rotation mode is suitable for writing the user data," as

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recited in claim 1. Since Hashimoto does not disclose all the limitations of claim 1, claim 1 and dependent claim 8 are not anticipated by Hashimoto. Applicants respectfully request that the rejection of claims 1 and 8 be withdrawn.

Claim 9, as amended, recites, *inter alia*, "a controller configured to background-format the recording medium in a first rotation mode suitable for the background-formatting, receive a user request for writing user data ..., and determine whether the first rotation mode is suitable for writing the user data in response to receipt of the user request." Claim 9 further recites "the controller further configured to write, if the first rotation mode is suitable ..., the user data ..., [but] to rotate, if the first rotation mode is not suitable ..., the recording medium in a second rotation mode and write the user data." Hashimoto does not disclose such a limitation. As discussed above regarding the patentability of claim 1, there is no step of determining whether the first rotation mode is suitable for writing the user data. Since Hashimoto does not disclose all the limitations of claim 9, claim 9 and dependent claims 16-17 are not anticipated by Hashimoto. Applicants respectfully request that the rejection of claims 9 and 16-17 be withdrawn.

Claim 18, as amended, recites, *inter alia*, "background-formatting the recording medium in a first rotation mode suitable for the background-formatting, ... receiving a user request for writing user data ..., [and] determining whether the first rotation mode is suitable for writing the user data in response to receipt of the user request." Claim 18 further recites "if the first rotation mode is suitable ..., writing the user data ..., [but] if the first rotation mode is not suitable ..., rotating the recording medium in a second rotation mode and writing the user data.." Hashimoto does not disclose such a limitation. As shown previously regarding the patentability of claim 1, there is no step of determining whether the first rotation mode is suitable for writing the user data. Since Hashimoto does not disclose all the limitations of claim 18, claim

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18 is not anticipated by Hashimoto. Applicants respectfully request that the rejection of claim 18 be withdrawn.

Claims 2-8 should be allowable along with claim 1, and for other reasons.
Claims 10-17 should be allowable along with claim 9, and for other reasons.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By 

Mark J. Thronson

Registration No.: 33,082

Rachael Lea Leventhal

Registration No.: 54,266

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorneys for Applicant